



Item No. 1.

MEETING DATE: 06/02/2025

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JIM SADRO, CITY MANAGER

By: Susan Kim, Director of Community & Economic Development

SUBJECT: DULY NOTICED PUBLIC HEARING TO CONSIDER ZONE CHANGE 25-0001 TO REPEAL AND REPLACE CHAPTER 18.66 (CONDITIONAL USE PERMITS) OF TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO CONDITIONAL USE PERMITS AND ESTABLISHING PROCEDURES FOR MINOR CONDITIONAL USE PERMITS

RECOMMENDATION:

That the City Council CONSIDER, APPROVE, AND ADOPT THE FIRST READING OF **ORDINANCE NO. CC 2025-__** ENTITLED: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA HABRA, CALIFORNIA, APPROVING ZONE CHANGE 25-0001 REPEALING AND REPLACING CHAPTER 18.66 (CONDITIONAL USE PERMITS) OF TITLE 18 (ZONING) OF THE LA HABRA MUNICIPAL CODE RELATING TO CONDITIONAL USE PERMITS AND ESTABLISHING PROCEDURES FOR MINOR CONDITIONAL USE PERMITS AND MAKING A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER SECTION 15061(B)(3) (COMMON SENSE EXEMPTION) OF THE CEQA GUIDELINES.

DISCUSSION:

Over the years, there have been requests by businesses and property owners to consider changes to the City's Conditional Use Permit (CUP) regulations in order to create a more "business-friendly" environment and help reduce costs for certain types of businesses to become established in the City. On June 17, 2024, in an effort to implement the City Council's objectives related to Development Activity and Business Assistance, the City Council initiated amendments to the La Habra Municipal Code (LHMC) related to conditional use permits (CUP) for non-residential uses in the City's commercial and industrial zones. Among the recommended amendments was the establishment of a new category of CUP called a "Minor CUP" or "MCUP." Staff have prepared a Draft Ordinance (Attachment 1) that repeals and replaces LHMC Chapter 18.66 (Conditional Use Permits) to clarify the requirements for CUPs and create a process for the approval of an MCUP. The Planning Commission reviewed the Draft Ordinance on May 12, 2025, and by a 4-0 vote (Chair Mahecha had an excused absence), approved a resolution recommending City Council approval. The Planning Commission staff report and minutes are provided as Attachments 2 and 3, respectively.

A CUP is a permit that requires discretionary approval from a city. These types of permits consent to a use not allowed by-right in a particular zone and are issued at the discretion of a local jurisdiction. Just as the name implies, the permit application is approved under a set of conditions and those conditions are set by the jurisdiction that the land falls within. The attached Table 18.06.040.A (Land Use Matrix) identifies the types of uses that require a CUP within each of the City's zones. In order for the Planning Commission to approve a conditional use permit, they must make the following findings:

- The granting of such conditional use permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.
- The subject site is physically suitable for the type of land use being proposed.
- The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of the zoning code.
- The granting of this conditional use permit is consistent with the comprehensive general plan.

The Planning Commission makes their decision following a public hearing. Notice of the public hearing is provided in the Orange County Register and by a mailed notice to property owners located within 300 feet of the subject property. The Planning Commission's decision may be appealed to the City Council within 10 days of the decision. To assist with the Planning Commission's decision, City staff prepare a report and draft resolution that either supports approval or justifies denial of a CUP. Typically, staff will attempt to work out any issues regarding a project with the project applicant during staff review of the project application, and it is relatively uncommon that staff would recommend project denial after successfully working with an applicant. The staff report is provided to the Planning Commission and the public at least 72 hours in advance of the Planning Commission's regularly scheduled meetings, which occur on the second and fourth Mondays of each month.

The current cost to process a CUP is \$6,759. In addition, the applicant is responsible for costs associated with the environmental review required for the project pursuant to the California Environmental Quality Act (CEQA). CEQA includes criteria for determining whether a project is exempt from CEQA or requires preparation of more detailed analysis, such as a Mitigated Negative Declaration (MND) or an Environmental Impact Report (EIR). Projects exempt from CEQA pay a fee of \$458. Projects requiring detailed analysis under CEQA pay the direct costs of a consultant to prepare this analysis plus an additional fee of 25% of the consultant costs to cover costs associated with City staff review of the analysis and management of the consultant. Typically, most uses that are proposed within existing tenant spaces are exempt from CEQA.

The table below indicates the filing fee charged for a CUP in surrounding cities; jurisdictions with an asterisk after their name offer a reduced price for a Minor CUP. The fee for the MCUP is shown in parentheses after the CUP fee. The fee to process a CUP or MCUP is subject to Government Code Section 66014, which prohibits planning and permit processing fees from exceeding the reasonable cost of providing the service or impact.

Jurisdiction	CUP Filing Fee
Placentia*	\$10,805 (\$3,484)
Fullerton*	\$9,600 (\$6,522)
La Habra	\$6,759
Whittier	\$5,938
Buena Park*	\$4,575 deposit - billed at an hourly rate (\$2,885)
La Habra Heights	\$3,500
La Mirada	\$3,013
Brea*	\$2,000 (\$1,000) deposit - billed at an hourly rate

ANALYSIS:

Staff have prepared the attached Draft Ordinance to establish a process to review and approve an MCUP. All the requirements for the processing of and approval of an MCUP would be the same as a CUP, except the following:

Requirement	CUP	MCUP
Approval Authority	Planning Commission	Community and Economic Development Director ("Director") unless: 1) The Director receives objections to a MCUP application which cannot be resolved by the Director, in which case the MCUP would be referred to the Planning Commission and the application would be considered one for a CUP and the proceedings by the Planning Commission would be held in the same manner required for a CUP; or 2) The MCUP application is made in conjunction with, and as a part of, a project that requires Planning Commission action, in which case the application would be made to the Planning Commission. In such instances, the proceedings by the Planning Commission would be held in the manner required for a CUP.
Notice	A Notice of the Public Hearing is sent to each property owner within three hundred feet of the exterior boundaries of the property involved.	Prior to the Director making a decision, a Notice of the Request will be sent to owners of all properties adjacent to and directly across the street from the exterior boundaries of the property involved, providing at least 10 working days for objections or comments to be submitted to the Director.
Public Hearing	Public Hearing required.	No Public Hearing, unless a request is referred to the Planning Commission.
Appeal Review Authority	City Council	Planning Commission. The Planning Commission's decision may then be appealed to the City Council.

The proposed process to review and approve an MCUP will likely be similar to the process currently in place for Administrative Adjustments; therefore, staff is recommending that the City Council initially approve the same fee for an MCUP as currently required for an Administrative Adjustment (\$386). It is likely that this initial fee will be less than the actual cost to process an MCUP; therefore, staff will be including the MCUP as part of the comprehensive fee study that the City's Finance Department will be conducting later this year. The fee study will provide staff with a better understanding of the actual costs associated with processing a MCUP, which will likely result in a recommended fee in an amount sufficient to cover the cost of processing an MCUP application, subject to future City Council approval.

If the City Council chooses to adopt the Draft Ordinance, staff will follow with a subsequent Zone Change, which the Planning Commission and City Council will consider at future public hearings in late summer/early Fall. This subsequent Zone Change would amend Table 18.060.040.A (Land Use Matrix), in order to identify uses that would be subject to a MCUP, as well as update Chapter 18.04 (Definitions), to make sure that each type of use is clearly defined. The determination of the types of uses that are subject to a CUP or MCUP may also result in additional changes to Table 18.06.040.A (Land Use Matrix), if certain categories of uses need to be modified to determine whether the use will be permitted, require a CUP or MCUP, or be prohibited. In addition, if staff identify any uses that are currently subject to a CUP that staff recommends should be permitted by right, the proposed amendments may also result in updates to Chapter 18.12 (Special Development Standards) and Chapter 18.14 (Off-Street Parking Requirements), to make sure that any additional requirements that may be needed for certain uses that would be permitted by right and would not have conditions of approval, would be appropriately addressed in these chapters.

As part of staff's review of Chapter 18.66 (Conditional Use Permits), staff also identified other portions of the chapter that staff believed could be improved. Additional proposed changes to Chapter 18.66 include:

- Making minor revisions to Section 18.66.020 (Application-Contents) regarding application contents, including requiring a description of the proposed use.
- Simplifying Section 18.66.030 (Application-Filing) to provide that applications for CUPs and MCUPs shall be made on the forms furnished by the City and accompanied by a fee in the amount established by the City Council.
- Revising Section 18.66.040 (Applications-Investigation) to also include the findings that must be made by the approval authority to approve a CUP or MCUP. The revisions also include minor revisions to the required findings. The proposed revised findings are:
 - The proposed use will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.
 - The subject site is physically suitable for the type of land use being proposed.
 - The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of the zoning code.
 - The proposed use is consistent with the comprehensive general plan.
- Adding a new Section 18.66.050 (Approval Authority) to define the Planning Commission as the approval authority for CUPs and the Director as the approval authority for MCUPs and outline when MCUPs are reviewed by the Planning Commission, consistent with the procedures outlined above.
- Adding a new Section 18.66.060 (Conditions) to expressly outline the authority for the approval authority to establish conditions for a CUP or MCUP.
- Making minor revisions to 18.66.080 (Public Hearing-CUP Scheduling-Notice) for consistency with current practice regarding noticing.
- Revising newly numbered Section 18.66.090 (Public Hearing-Conduct) to clarify that the Planning Commission has the authority to continue a hearing and is not required to continue such hearing to a date certain.
- Revising newly numbered Section 18.66.100 (Planning Commission Action) to remove the required findings, which have been moved to Section 18.66.040 as outlined above.
- Adding a new Section 18.66.110 (Period of Validity-Extensions) to provide that a permit that is not utilized, as defined, within two years from its effective date will expire, and to provide authority for the Director to approve one-year extensions, for up to two years, if the Director makes specified findings.
- Revising newly numbered Section 18.66.130 (Termination of Permits), which, under existing provisions, could potentially hinder businesses from locating within the City of La Habra, as well as not afford property owners due process in regard to the termination of their inactive land use entitlements. The proposed revisions create clear termination procedures consistent with California case law.
- Revising newly numbered Section 18.66.140 (Appeals) regarding appeal procedures. The same appeal procedures will apply for both CUPs and MCUPs; however, the appeal review authority will be as outlined in the table above.

The various proposed changes throughout Chapter 18.66 are intended to make the chapter easier to understand and implement. The attached ordinance has been reviewed by the City Attorney's Office to ensure legal compliance.

PLANNING COMMISSION ACTION:

On May 12, 2025, staff presented Zone Change 25-01 to the Planning Commission. A member of the public commented on the high cost required to process a CUP with the City of La Habra. After deliberation, the Planning Commission voted 4-0 (Commissioner Mahecha had an excused absence) to recommend approval to the City Council. The Planning Commission staff report and minutes are provided as Attachments 2 and 3, respectively.

FISCAL IMPACT/SOURCE:

Costs associated with City-initiated amendments to the LHMC that pertain to the Community and Economic Development Department are generally assumed as part of the Department's annual budget.

The proposed initial fee to process, review and approve an MCUP is recommended at \$386 (likely to increase after the fee study is complete), which is significantly less than the \$6,759 fee currently in place to process CUP applications. If approved by City Council, the new MCUP process will likely result in a moderate reduction in CUP/MCUP fee revenues to the General Fund depending on the number of MCUP's processed in a given year; however, this will also likely result in less staff time and cost necessary to process an MCUP compared to a CUP. Once in place, staff will track MCUP applications and will report back to City Council at a future date regarding the actual net impact MCUP's have on the City's budget.

GENERAL PLAN RELEVANCE/CITY COUNCIL GOALS & OBJECTIVES:

Applicable General Plan Goals:

- Goal LU1: Growth and Change. Sustainable growth and change through orderly and well-planned development that provides for the needs of existing and future residents and businesses, ensures the effective provision of public services, makes efficient use of land and infrastructure, and promotes the health of the community.
- Goal LU 2: Land Use Diversity and Choices for Residents. A mix of land uses that meets the diverse needs of La Habra's residents, offers a variety of employment opportunities, and allows for the capture of regional population.
- Goal LU 11: Diverse Districts and Corridors. Vital, active, prosperous, and well-designed commercial districts that provide a diversity of goods, services, and entertainment and contribute to a positive experience for visitors and community residents.
- Goal LU 12: Places to Live, Work, and Shop. A diversity of well-designed districts and corridors containing an integrated mix of commercial, office, and/or housing that enable La Habra's residents to live close to businesses and employment, reduce automobile use, actively engage and enhance pedestrian activity.
- Goal LU 16: Quality Industrial and Commercial-Industrial Districts. A diversity of districts accommodating light industrial uses are developed that provide a variety of job opportunities for La Habra's residents, reducing their need to commute to other communities, while not unduly impacting the residential environment.
- Goal ED 1: Competitive Strength and Diversification. Diverse mix of business activity that serves consumers within the City and surrounding communities.
- Goal ED 2: Business Attraction, Retention and Assistance. Responsive support of new and expanding businesses within the community.
- Goal ED 4: Local Job Growth. Expanded base of well-paying jobs that employ marketable skills of local workforce.
- Goal ED 6: Development Assistance. Proactive administration, review, and approval of existing property improvements and prospective development projects.

Applicable City Council Goals and Objectives:

- Goal 5: Development Activity and Business Assistance:
 - Objective B: Monitor commercial property listings that have sales tax generating potential for potential acquisition and/or marketing to attract/retain businesses, and work with property owners and the brokerage community to develop land to its highest and best use.
 - Objective D: Continue to improve the City's business retention and expansion program.
 - Objective E: Continue to evaluate and improve the City's development review process and continue to foster a "business friendly" environment within all City departments.

Attachments

ATT 1 Draft Ordinance

ATT 2 Planning Commission Staff Report (No Attachments)

ATT 3 Planning Commission Minutes

ATT 4 Land Use Matrix

ATT 5 Legal Notice

ATT 6 PowerPoint Presentation
